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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/648,817	08/26/2003	Richard A. Enos	ENO-ICIP	4560
20808	7590	03/04/2004	EXAMINER CHAMBERS, MICHAEL S	
BROWN & MICHAELS, PC 400 M & T BANK BUILDING 118 NORTH TIOGA ST ITHACA, NY 14850			ART UNIT 3711	
PAPER NUMBER				

DATE MAILED: 03/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/648,817

Applicant(s)

ENOS ET AL.

Examiner

Michael Chambers

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) ____ is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

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Information Disclosure Statement

The information disclosure statement filed 2/2/04 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each U.S. and foreign patent; each publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. There is no copy of any document included with the IDS. It has been placed in the application file, but the information referred to therein has not been considered.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3,6,8 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Crain. Crain discloses a fastener body (15), a tension pin (33,35,25), a compression spring (33) and one or more end caps (27, fig 1).

Note: the use of the fastener with a lacrosse head in the preamble is not positively recited and does not limit the claim language.

As to claim 3: Crain discloses a round shape (fig 3).

As to claim 6: Crain discloses means for pulling said fastener from said shaft (15).

As to claim 8: See claim 1 rejection.

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As to claim 10: Crain discloses a round shape (fig 3).

As to claim 13: See claim 6 rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4, 5, 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Crain as applied to claim 1 above. Crain discloses the elements of claim 4, however it fails to clearly disclose the use of a metal spring. Metal springs are well known in the art. It would have been obvious to one of ordinary skill in the art to have selected a metal or metal alloy spring in order to lower the cost of production.

As to claim 5: No criticality is seen in the force required to compress said spring. It would have been obvious to one of ordinary skill in the art at the time of the invention to have selected any one of several equivalent spring tensions in order to for the pin to securely attach the device.

As to claim 11: See claim 4 rejection.

As to claim 12: See claim 5 rejection.

Claims 15, and 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lewis Jr, in view of Crain. Lewis Jr, discloses the elements of

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claim 15, however it fails to clearly disclose the use of a tension pin (2:61-64).

Crain discloses the use of a tension pin (27) to secure an assembly. It would have been obvious to one of ordinary skill in the art at the time of the invention to have employed the tension pin of Crain with the apparatus of Lewis Jr in order to more easily replace the handle without tools.

As to claim 17: Lewis Jr discloses a round shape. The fastener body would inherently be circular as it is inserted in the handle.

As to claim 18: No criticality is seen in the use of a metal springs. Metal springs are well known in the art. It would have been obvious to one of ordinary skill in the art to have selected a metal or metal alloy spring in order to lower the cost of production.

As to claim 19: No criticality is seen in the force required to compress said spring. It would have been obvious to one of ordinary skill in the art at the time of the invention to have selected any one of several equivalent spring tensions in order to for the pin to securely attach the device.

Claims 2, 9 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to claim 1 in view of Official Notice.

Crain does not disclose clearly disclose the use of a plastic fastener body.

Official Notice is taken that it is well known in the art to use various plastic materials. It would have been obvious to one of ordinary skill in the art at the time

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of the invention to have employed any one of several various equivalent plastic materials based on manufacturing and cost considerations.

As to claims 9 and 16: See claim 2 rejection.

Double Patenting

A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

Claims 1-21 are provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-21 of copending Application No. 10/256577. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

Allowable Subject Matter

Claims 7, 14 and 21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims and claims 7, 14 and 21 are canceled from the copending application.

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Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Chambers whose telephone number is 703-306-5516. The examiner can normally be reached on 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steve Garbe can be reached on 703-308-1207. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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685791*5566947*5271682*5082290*3214187*29
80456*2606050*2319992*2031044*1852071*
February 26, 2004

Michael Chambers
Examiner
Art Unit 3711


Stephen P. Garbe
Primary Examiner